

# **Judge Kimberly J. Mueller**

**United States District Court - Eastern District of California**

**501 I Street, Suite 4-200**

**Sacramento, CA 95814**

**Courtroom Deputy, Casey Schultz**

**Phone: (916) 930-4193**

## **CIVIL LAW AND MOTION**

Civil law and motion calendar is held on designated Wednesdays at 10:00 a.m., in Courtroom 3, 15th Floor. The next available motion dates are: **August 31, September 14, September 28, October 12, and October 26, 2011.**

**JUDGE MUELLER DOES NOT ISSUE TENTATIVE RULINGS.**

**MOTION DATES ARE SUBJECT TO CHANGE WITHOUT NOTICE.**

**MOTION DATES ARE NOT RESERVED.** File your papers in accordance with the Local and Federal Rules. As set forth in the court's Order Requiring Joint Status Report, any briefs or other papers filed prior to the issuance of the Pretrial (Status) Scheduling Order, the Court's standing orders and case specific orders shall not exceed twenty (20) pages. The court also places a page limit for dispositive motions of twenty (20) pages on all initial moving papers, twenty (20) pages on oppositions, and ten (10) pages for replies. The parties are not to file multiple or supplemental briefs to circumvent this rule.

- 1 **Courtesy Copies of All Motion-Related Pleadings and Exhibits totaling 25 pages or more ONLY:** Shall be mailed in hard copy form directly to Judge Mueller's chambers (at the address listed above) immediately upon e-filing as provided by Local Rules 130(b), 133(f) and 133(j).
- 1 **Pagination of Exhibits:** Multi-page exhibits shall be internally paginated, with the pagination for each exhibit beginning with the number one; reference to those exhibits shall refer to the exhibit designation and page number, i.e., Ex. A at 7; Ex. B at 1, etc.
- 1 **E-Mailing of Proposed Orders:** As required by the Local Rule 137(b), counsel shall submit their proposed order accompanying any application, request, stipulation or motion in either Word Perfect (strongly preferred) or Microsoft Word format via email to: [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov). As provided by Local Rule 101 and 131 ( c ) and (e), the document should include the attorneys' electronic signature(s) (i.e. /s/ First/Last name), as well as the date the document was signed.
- 1 **Discovery matters (including motions):** All discovery matters and other duties to be performed by the Magistrate Judge pursuant to Local Rule 302 shall be noticed before the assigned Magistrate Judge, unless otherwise ordered by the court.
- 1 **Ex Parte Applications:** Ex Parte Applications are not heard, but are submitted by the court unless otherwise notified. The filer is required to contact the courtroom deputy and the opposing party prior to the filing of the ex parte application in order to advise that such request is being made. The filer shall include an affidavit indicating a satisfactory explanation for the following: 1) the need for the issuance of such an order; 2) the failure of the filer to obtain such a stipulation for the issuance of such an order from other counsel or parties in the action, and

3) why such request cannot be noticed on the court's law and motion calendar pursuant to Local Rule 230. In addition, the document(s) must indicate whether or not an opposition will be filed. Any opposition shall be filed no later than 48 hours from the filing of the ex parte application. When an ex parte application is filed on a Friday, the time for filing the opposition is extended to 72 hours from the filing.

- 1 **Requests for Telephonic Appearances (in civil cases):** Unless the court has ordered personal appearance (for example, as it does with respect to initial scheduling conferences) parties may request telephonic appearance. Any request for appearance by telephone must be prepared in pleading form, along with a proposed order and e-filed accordingly at least 5 days prior to the hearing date. The request and proposed order MUST include the following: 1) the reasons for such request; 2) the name of the attorney(s) making the appearance; and 3) the direct telephone number where the attorney(s) can be reached on the day of the hearing. Upon e-filing the request, a Word Perfect (strongly preferred) or Microsoft Word version of the proposed order must be submitted to the judge's email address for her review and approval: [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov). If the request is approved, the courtroom deputy will provide conference call information to the attorney. The attorney shall call into the conference line 5 -10 minutes prior to the time of the hearing and be prepared to proceed when his or her matter is called. If counsel encounters problems when accessing the conference line, they should immediately email the Courtroom Deputy at [cschultz@caed.uscourts.gov](mailto:cschultz@caed.uscourts.gov).

## **CRIMINAL CALENDAR**

Held on Thursdays at 10:00 a.m. unless the Court is in trial, in which case the calendar is reset for 2:30 p.m. Please contact the courtroom deputy for a new hearing date prior to seeking the continuance of any sentencing matters.

NO MATTERS ARE CONTINUED WITHOUT THE JUDGE'S PRIOR CONSENT.

THE COURT REQUIRES PERSONAL APPEARANCES EVERY TWO MONTHS FOR STATUS CONFERENCES UNLESS GOOD CAUSE AND ALL APPLICABLE LAWS SUPPORT LONGER INTERVALS AND THE COURT APPROVES A WRITTEN REQUEST IN ADVANCE.

- 1 **Criminal Calendar Continuances:** The court requires the submission of stipulations and proposed orders on any matters that can be handled without an in-court hearing (e.g., request for the setting of further status conferences, requests for continuances of pending matters, or the setting of trial confirmation hearings and trial dates). Any such stipulation shall include the date of the last appearance by the parties, explain in detail the reason for a requested continuance and include all language required by law. When applicable, the probation officers shall be included in discussions about continuances. Stipulations and requests for continuances on criminal matters shall be submitted no later than noon on the Tuesday prior to the hearing date, unless the Courtroom Deputy notifies counsel otherwise. If you cannot confirm a continuance via telephone, email or ECF, check the "off-calendar" portion on the web calendar.
- 1 **Requests for Telephonic Appearances (in criminal cases):** Any request for appearance by telephone must be prepared in pleading form, along with a proposed order and e-filed accordingly at least 5 days prior to the hearing date. The request and proposed order MUST include the following: 1) the reasons for such request; 2) the name of the attorney(s) making the appearance; and 3) the direct telephone number where the attorney(s) can be reached on the day of hearing. Upon e-filing the request, a Word Perfect (strongly preferred) or Microsoft Word version of the proposed order must be submitted to the judge's email address for her review and approval: [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov). If the request is approved, the courtroom deputy will provide conference call information to the attorney. The attorney shall call into the conference line 5 -10 minutes prior to the time of the hearing and be prepared to proceed when his or her matter is called. If counsel encounters problems when accessing the conference line, they should immediately email the Courtroom Deputy at [cschultz@caed.uscourts.gov](mailto:cschultz@caed.uscourts.gov).
- 1 **Rule 17(c) Subpoena Requests:** These requests should be submitted to the duty magistrate judge.

**SETTLEMENT CONFERENCES:** Held on available Friday mornings unless otherwise ordered by the Court.

**TRANSCRIPT ORDERS:** If you wish to order a transcript please contact Cathie Bodene at (916) 446-6360 or [cbodene@caed.uscourts.gov](mailto:cbodene@caed.uscourts.gov).

## **TRIALS**

Judge Mueller utilizes a modified Arizona plan for jury selection. The court will conduct voir dire and allow short voir dire by counsel then ascertain if any potential juror will be excused for cause. If a potential juror is excused for cause, a new name is selected and that person is voir dired before jury selection continues. Once voir dire is completed and all challenges for cause have been ruled on, the attorneys will be given a strike sheet to exercise their peremptory challenges. Once the peremptory challenges are marked, the Judge will excuse those jurors and then the highest numbered jurors still in the box until the desired number of jurors remain.

Presumptive trial hours, subject to adjustment based on the other court calendars: Jury Selection/Start of Trial Mondays at 9:00 a.m. - 4:30 p.m., additional days Tuesdays - Thursdays 8:30 a.m. - 1:30 p.m., and dark on Fridays. Lunch on full days is 12:00 p.m. - 1:30 p.m., and breaks on other days are at 10:15 a.m. and 11:45 a.m. If Monday is a holiday, then trial shall commence on Tuesday of that week at 9:00 a.m.

Electronic Equipment: Judge Mueller's courtroom is currently equipped with the following electronic equipment: 1) ELMO (limited availability), 2) Video Cable Hook-ups; 3) Large Projector Screen; 4) Laptop Hook-ups; and 5) Monitors in jury box, witness stand, and at counsel table. The courthouse also has a projector available. However, counsel should contact the courtroom deputy at least 1-2 weeks prior to trial in order to verify the availability of the courthouse projector and ELMO, or counsel may bring in their own, if necessary. Additionally, counsel should contact the courtroom deputy prior to the day of trial in order to make arrangements to view the courtroom and bring in any other necessary equipment and/or materials. Additional equipment is available from the Clerk's office as described below.

For any paraphernalia (e.g. large physical items or blowups, electronic equipment, etc.): Counsel are to make arrangements through the Court Security Officers at (916) 930-2080.

Counsel rooms are available on either side of the courtroom (out in the hallway) for your use during trial.

Counsel shall lodge any certified transcripts with the courtroom deputy on the first day of trial.

Counsel also shall email the courtroom deputy copies of exhibit and witness lists in either Word Perfect (strongly preferred) or Microsoft Word format by the Thursday prior to trial to the following email address: [cschultz@caed.uscourts.gov](mailto:cschultz@caed.uscourts.gov). Exhibit lists shall be in table format and include two columns on the right side of the table, one labeled "offered" and the last labeled "admitted".

Counsel shall comply with the Court's Final Pretrial Order regarding the preparation and submission of trial exhibits. Questions should be directed to the Courtroom Deputy. The parties are advised to mark their trial exhibits exactly as outlined in the Court's Final Pretrial Order. Exhibit stickers may be obtained from the Office of the Clerk located at 501 I Street, Suite 4-200, Sacramento, California 95814. Questions regarding exhibit stickers should be directed to the Office of the Clerk at 916-930-4000.

If you have not already done so, please be sure to email the Word Perfect (preferred) or Microsoft Word version of your statement of the case, jury instructions, voir dire questions and proposed verdict form, or proposed findings of fact (if your case is a bench trial), to the judge's email address: [kjmorders@caed.uscourts.gov](mailto:kjmorders@caed.uscourts.gov) as required.

## **AUDIO/VISUAL EQUIPMENT**

The Sacramento Clerk's office has a variety of audio/visual equipment available to use for trial purposes. Available equipment may include: ELMOs, projectors, plasma screens, TVs and VCRs. In order to learn about the equipment provided by the court, you can access our intranet home page and follow these procedures:

- 1) From the Court intranet home page, select Attorney Info tab.
- 2) On the next screen, select Sacramento.
- 3) Scroll down to Electronic Courtroom option.
- 4) Attorneys should arrange through the Courtroom Deputy a time to meet with court Information Technology staff for training on electronic equipment. Appointments should be scheduled at least one to two weeks prior to trial.

If you have any questions or need further information, please contact the Contact Courtroom Deputy, Casey Schultz, at 916-930-4193.